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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of the Petition of the Cellular Telecommunications and Internet Association Regarding Proposed Location Information Privacy Principles

WT Docket No. 01-72

INITIAL COMMENTS
OF THE
LOCATION PRIVACY ASSOCIATION

The Location Privacy Association ("LPA"), acting in accordance with the Commission's Public Notice, DA 01-696, released March 16, 2001, hereby submits its initial comments in support of the captioned petition of the Cellular Telecommunications and Internet Association ("CTIA").

I. STATEMENT OF INTEREST

1. The LPA was recently founded by major location technology providers Airbiquity, Inc. and QUALCOMM, Inc., to educate national policy makers, government leaders, the wireless industry, and the general public about the privacy and public safety benefits of highly accurate, customer-controlled, terminal-based location technologies. Indeed, Airbiquity and QUALCOMM, Inc., are leading developers of technological solutions that place control of the wireless-location-determining features firmly in the hands of the wireless subscriber. With the foregoing factors in mind, the LPA has a clear and direct interest in the Commission's action on the CTIA Petition ("Petition").

II. THE COMMISSION SHOULD PROMPTLY INITIATE A SEPARATE RULEMAKING ON WIRELESS LOCATION PRIVACY

2. The LPA agrees with the CTIA that the FCC should address the wireless location privacy issues raised by the Petition in a targeted proceeding, separate from the Commission's Customer Proprietary Network Information ("CPNI") docket. As noted in the Petition, wireless penetration continues to grow at a rapid pace. There are currently well over one hundred ten million wireless users. The prospective integration of Internet access with wireless services raises the same privacy issues and concerns that are currently being analyzed with respect to terrestrial e-commerce.¹ More importantly, the imminent deployment of advanced technologies able to gather precise location information on wireless subscribers, as directed by the Commission's Enhanced 911 ("E911") docket, requires initiation of such a proceeding. As chronicled by numerous recent high-profile articles and news features regarding wireless location, there is a growing public sensitivity to the potential for misuse of location data.² Such stories may not only dampen the market introduction of commercial, safety-and-security-related wireless location services; the concern they generate could also inhibit consumer comfort with the use of location-based technologies for safety and security purposes. In either case, addressing the wireless location privacy issue with a separate proceeding would help allay consumer concerns and promote the smooth introduction and acceptance of these advanced location technologies, which help protect and save lives.

3. The Congress has already directed the Commission to protect the privacy of mobile location information. The Wireless Communications and Public Safety Act of 1999 ("WCPSA") mandated

¹ There is now a Congressional Privacy Caucus. In addition, there are currently some 50 bills in Congress to address the privacy of information gathered from users of the Internet. See Telecommunications Reports, March 26, 2001, at p. 7.

² See "GPS Cell Phones May Cost Privacy", San Francisco Chronicle, March 19, 2001; "Locating Devices Gain in Popularity but Raise Privacy Concerns", New York Times, March 4, 2001. "Lifesaver of Big Brother? 911 Tracking System Raises Privacy Concerns", ABC News, March 13, 2001; "Wireless, with Strings Attached - A Cellphone Can Make You Standout, to Rescuers and Marketers Alike", USA Today, February 7, 2001; "Concerns Mount Over Wireless Location Technology", ComputerWorld, February 15, 2001,.

that the privacy implications of wireless call location information be thoroughly considered. Indeed, under the WCPSA, with certain limited exceptions, Congress mandated that such data is not to be used or disclosed "without express prior authorization."³

4. As noted in the Petition, the Commission had previously deferred consideration of the call location information provisions of the WCPSA. However, the unique elements of call location privacy issues warrant the separate proceeding urged by CTIA. Wireless carriers will soon be in the process of deploying technologies that will permit highly accurate identification and collection of mobile location information from wireless subscribers for emergency and other commercial purposes. Members of Congress have voiced concerns about the privacy of location data.⁴ The time for the Commission to act is now by opening a separate proceeding as urged by CTIA.

III. THE LPA STRONGLY SUPPORTS CONSUMER OPT-IN

5. The LPA generally supports the location privacy principles set forth in the Petition: (a) notice, (b) consent, (c) security and integrity and (d) technology neutrality. Prior notice of a location service provider's information collection and use practices is essential for subscribers to be able to make informed decisions about whether or not they will consent to location data collection. Location information is personal and must be kept secure from unauthorized disclosure once collected. Finally, the LPA agrees that these principles should apply to whatever technology is being used to collect the data.

6. From the LPA's perspective paramount, however, among the principles advocated by the Petition is the requirement of affirmative consumer consent or "opt-in". The ability to control the

³ See 47 U.S.C. § 222(h)(1).

⁴ Senator Conrad Burns, Chairman of the Senate Communications Subcommittee, has indicated his intent to hold a hearing on wireless location privacy. See Telecommunications Reports, February 12, 2001, at p. 5. In the House of Representatives, Congressman Peter Frelinghuysen has introduced the Wireless Location Privacy Act of 2001, H.R. 260.

capture and use of this location information should remain with the wireless subscriber. The LPA strongly believes that the wireless subscriber is the sole owner of his or her location data and makes that information available with the express understanding that the subscriber must authorize any commercial use or re-use of such information. First and foremost, this information should not be allowed to be collected and disseminated unless the subscriber consents.

7. Indeed, this principle of personal control was the foundation for the privacy provisions of the WCPSA. As Congressman Edward Markey, the prime proponent of the WCPSA privacy requirements stated: "This is an opt-in for consumer privacy. The company has to get one's permission to use this information."⁵

8. The LPA and its founding members believe that it is imminently reasonable for every wireless subscriber to expect that any location-based service must have the subscriber's explicit authorization for use and reuse of their location data. For that reason, the LPA founding members have taken the lead in developing commercially-ready products that have incorporated consumer "opt-in" features for providing highly accurate location information. These products include the following:

- Airbiquity's GPS Accessory. This product is commercially available today (for both the retrofit market and for "kitting" of new wireless phones) for Nokia brand 511, 6100, and 7100 series phones that operate on any CDMA, TDMA, GSM, and AMPS wireless network. Its unique push-button feature permits the wireless subscriber alone to send highly-accurate, GPS-generated location information to an authorized service provider.
- QUALCOMM's gpsOne Technology: The gpsOne position location technology is integrated onto the QUALCOMM's MSM3300 and MSM5100 chip sets, and on most upcoming MSM-based integrated circuit solutions.

gpsOne, a fully integrated, handset-based solution, remains in a dormant or "OFF" mode until a customer either dials 9-1-1 or otherwise manually and intentionally activates a position location feature or application. Like the Airbiquity GPS accessory described above, gpsOne cannot be remotely activated, or activated by anyone other than the customer.

Further information on each of these products is enclosed at Exhibits A and B.

9. In both cases, the key feature of each product is that the location information processor resides in the handset itself, thereby giving the wireless subscriber direct control over the instrument generating and transmitting the data. Furthermore, that feature allows that subscriber to decide when and where to initiate or terminate the transmission of his or her mobile location. The user, not the carrier or the network, decides when the mobile location feature is on or off. Such an opt-in policy should be the cornerstone of any Commission privacy policy.

IV. COMMISSION ACTION SHOULD NOT BE USED AS A PRETEXT FOR DELAYING E911 IMPLEMENTATION

10. The LPA agrees that a separate proceeding should be initiated. However, the Commission should not permit the initiation and conduct of such proceeding to be used by any party as a pretext for further delay in fulfilling wireless carrier obligations under the FCC's E911 mandate. The Commission has previously delayed the implementation of Phase II E911 obligations. Most wireless carriers have now elected the type of technology they will deploy. That deployment process should be permitted to go forward separately, in advance of the determination in this new docket of what privacy principles should be applied.

⁵ 145 Cong. Rec. No. 137., H9860, October 12, 1999 (remarks of Congressman Markey).

V. CONCLUSION

11. The LPA seeks to promote and advocate privacy-conscious technologies and policies for wireless location-based services. Wireless location privacy is an issue that deserves separate, focused attention. The principles articulated by the CTIA provide a solid foundation for a through and reasoned analysis of this important matter. The fundamental governing principle must be consumer control over the decision to allow the gathering and dissemination of wireless call location data.

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Respectfully submitted,

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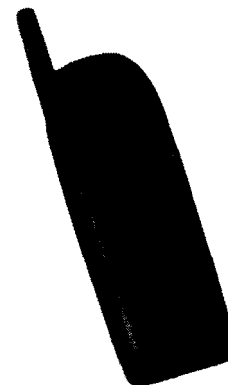
Dated: April 6, 2001

EXHIBIT A

Airbiquity's GPS Accessory

Being Offered for Distribution in the United States Today

- Instantly attachable GPS Accessory in the form of a standard Nokia brand BLM-4 battery
- Simple, 1-button, Push-to-Pinpoint™ button for location privacy protection – *Location Opt-in only to authorized service providers*
- Retrofittable to 18 different models of Nokia® phones, with no phone reflash
- Operates on CDMA, TDMA, GSM, and AMPS air interfaces
- Completed FCC, HALT, 3rd Party, and Rigorous Field Testing
- Successfully demonstrated to the FCC Wireless Bureau in December 2000
- Technology
 - SiRFstar™ II GPS
 - aqLink™ wireless communications software on TI® 5409 DSP
 - Highly miniaturized patch GPS antenna
 - 4MB flash memory
 - 1400mAh Panasonic® Lithium-Ion battery
 - Built-in RS-232 port to send GPS data to PDA
 - Works with most other Nokia accessories



Airbiquity GPS Accessory Solution

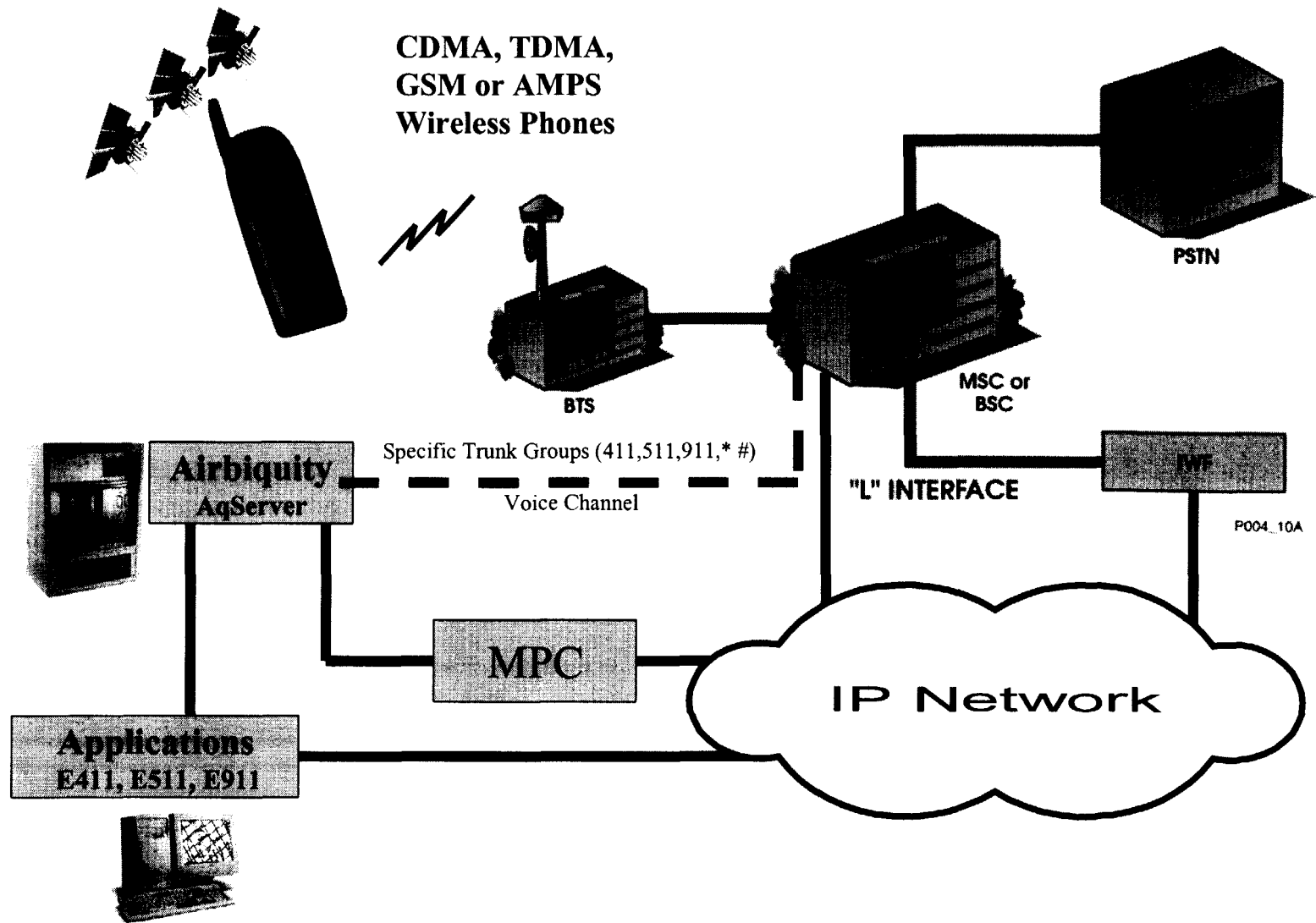
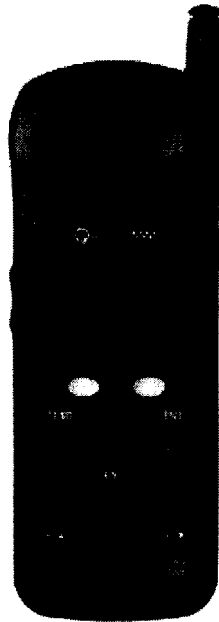
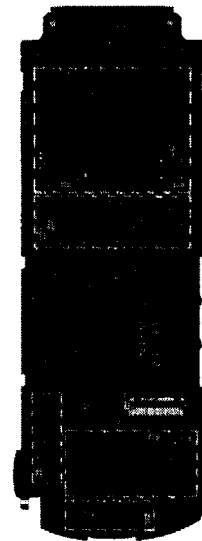


EXHIBIT B

- > **GPS processor
Integrated into
the MSM3300
Chipset**



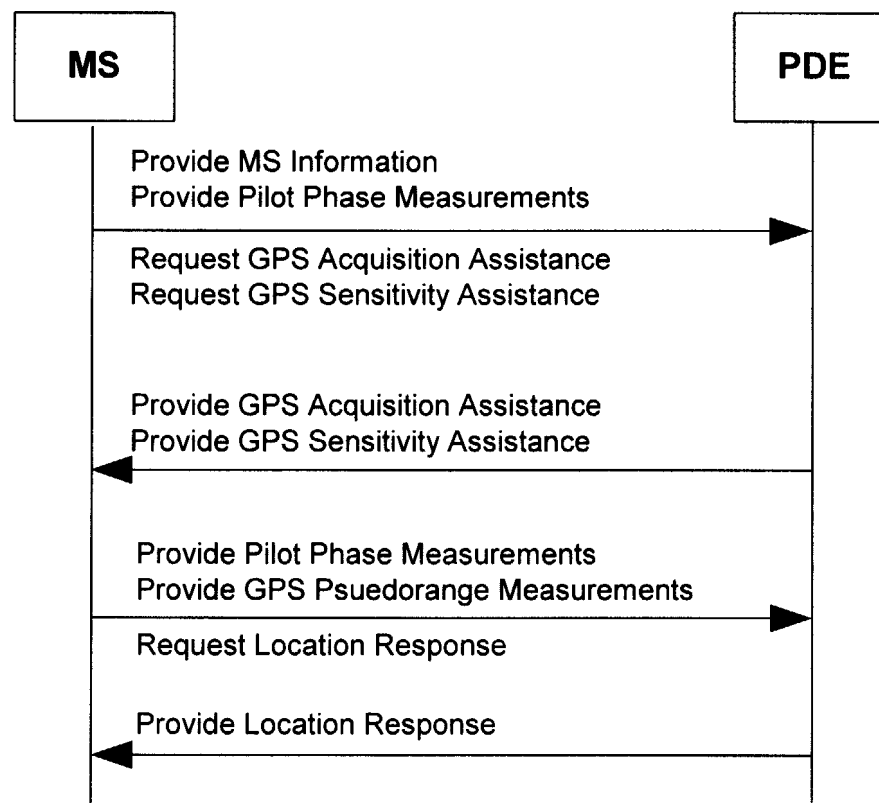
*MSM3000 based
handset*



*View of PCB
(components on other side)*

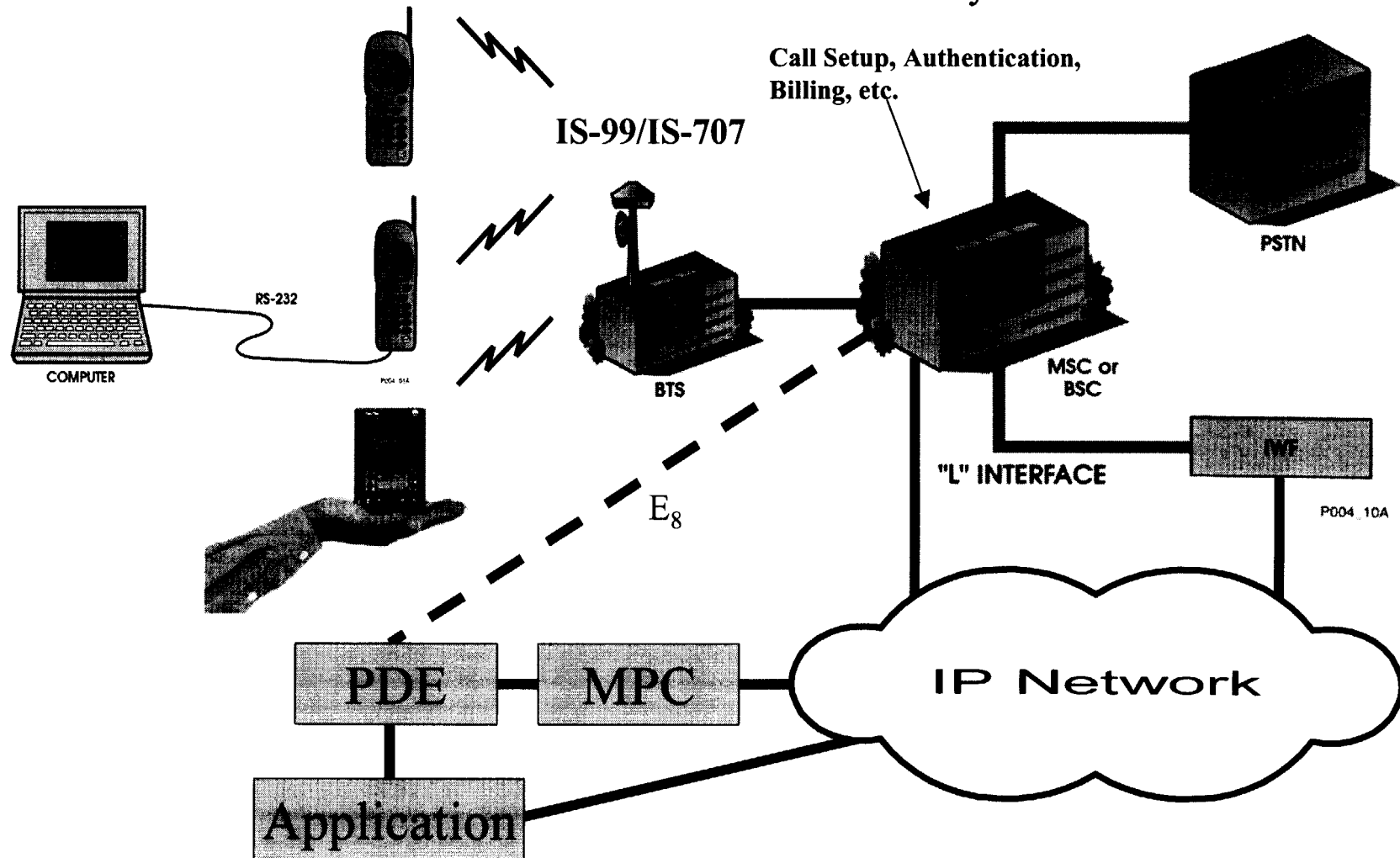
IS801 Messaging (MS Initiated)

Initial Target: MS Initiated, PDE Calculated Position



gpsOne Network model

Network Model for a "Advanced" Trial System



December 12th, 2000

Privacy Implications of gpsOne Design

- Landline 911 calls are always locatable
- Network location solutions are always on

Conversely,

- Handset-based solutions such as gpsOne are designed to be on only when the user wants them on; user can select:
 - Default: Always on or always off
 - Per Use: Decide at time of inquiry
 - On by exception: only for E911 or select applications

Privacy Implications of gpsOne Design

	Landline Phone	Network-based Location Solution	gpsOne Location Solution
When does it operate?	Always on	Always on	User switchable
Where does it operate?	At subscription address only	In coverage areas (typically urban & suburban)	All terrain (urban, rural suburban, indoors, outdoors)
Who controls turning on/off?	Carrier	Carrier	User option: <ul style="list-style-type: none"> • by default • per inquiry • by exception (on for E911 only)

December 12th, 2000

Conclusions

- gpsOne design provides optimal safety support without compromising privacy
- Positioning capability can be user-deactivated in several different ways: default, per use and by exception
- gpsOne design sets the “gold-standard” for privacy in personal location services.
- Alternative systems such as network-based and landline systems are both less private and less able to support personal safety.

gpsOne Market Update

- 1H2001 gpsOne and MSM-3300 deployment in Japan.
- Major US CDMA carriers likely to deploy gpsOne.
- Major Japanese and Korean handset manufacturers deploying gpsOne-enabled MSM-3300 handsets for both Asian and US markets.